IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.801 OF 2005
IN
SUMMONS FOR JUDGMENT NO.992 OF 2003
IN
SUMMARY SUIT NO.2373 OF 2003

Rutvij Chemicals Ltd. .. Appellants.
V/s.
Dai Ichi Karkaria Ltd. .. Respondents.

Mr.H.J. Thakkar with Mr.H.V. Chande for the appellants.
Mr.Kevic Setalvad with Mr.G.M. Kotwal i/b. Tyabji Dayabhai for the respondents.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 11TH OCTOBER, 2005.

P.C. :

1. Heard learned counsel for the appellants.

2. During the course of hearing, the learned counsel for the appellants could not dispute the receipt of Rs.1,61,00,000/- by the appellants. Under these circumstances, the view taken by the learned Single Judge cannot be said to be perverse view.

3. The Apex Court while laying down the countours of the powers of the appellate Court from time-to-time laid down that the appellate court in dealing with the matter raised before it at the appellate stage, would normally not be justified in interfering with the exercise of the discretion under

appeal solely on the ground that if it had considered the matter at the trial stage it may have come to a contrary conclusion. If the discretion has been exercised by the trial Court reasonably and in a judicial manner the fact that the appellate Court would have taken a different view may not justify such interference with the trial Court's exercise of discretion. If it appears to the appellate Court that in exercising its discretion the trial Court has acted unreasonably or capriciously or has ignored relevant facts, then it is open to the appellate Court to interfere with the trial Court's exercise of discretion.

4. The view taken in the case at hand is a reasonable and possible view in the facts, circumstances and material available on record. So far as the amount of deposit directed by the learned Single Judge is concerned, this part of the order is an outcome of exercise of discretion which has been exercised keeping in mind the receipt of the amount in question by way of deposit.

4. In this view of the matter, no case made out to entertain this appeal. The appeal is, therefore, dismissed in limine with no order as to costs.

(J.P. DEVADHAR, J.) (V.C. DAGA, J.)